Ontario Human Rights Commission

affirmation

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Unconscious Racism

The background of the 'Nutcracker' controversy

By Mark Nakamura

When, during the latter part of the 19th century, the large lumber, mining and railway companies of the west coast of North America were searching for sources of cheap labour, they turned to Asia where western nations were already exploring the resources of that continent. In addition to natural wealth, human resources were now added to the list of desirable imports. Thus began the Chinese immigration into North America generally and into Canada specifically.

This chapter of Canadian immigration history is not a pleasant one. It can be understood only through a close examination of Canada's racist policies and programs which were directed against the Chinese by all levels of government, the professions, the unions, the press and the citizenry in and around the turn of the century up to the 1930s and '40s.

Although Chinese immigration was, at first, welcomed as a source of cheap labour, every effort was made to control its level and to discourage the immigrants from staying after their labour was no longer needed. Many impositions were thrust upon the Chinese, including head taxes, miscegenation laws, disenfranchisement and restricted Chinese female immigration. Canada was seen by Canadians as a 'white man's country' and Robert Borden, who was destined to become one of Canada's future prime ministers, described it so himself. The whites feared inundation by a 'yellow tide'. Antagonism continued to grow until it burst into the 1907 race riot in Vancouver, which resulted in heavy damage to Chinese, and some Japanese, stores and businesses. Drastic measures were called for by the white population and the provincial and federal Parliaments continued to pass anti-Chinese laws.

In 1923, the Canadian government passed the *Chinese Immigration Act,* more commonly known as the *Chinese Exclusion Act,* prohibiting any further entry of Chinese into Canada.

The image of the Chinese that had emerged in the Canadian consciousness was that of a strange, passive, exotic, inferior and unassimilable individual whose proclivities ran to gambling, drugs and other vices. It was, moreover, further exemplified by slanted eyes, buck teeth, coolie gait, unique l-r speech pattern, queue and Fu-Manchu moustache. This image became the Chinese stereotype and the vehicle for derision and hatred. These sentiments flourished primarily on the west coast of Canada, where Asians constituted a substantial proportion of the population, until the 1940s. Not until 1948 were Chinese Canadians given the right to vote.

Therefore, it is not hard to understand the apprehension, resentment and concern that exists among Chinese Canadians today when they see themselves still characterized in the old stereotyped fashion in cartoons, advertisements, movies, television and the theatre. An otherwise innocent play may stir old anxieties.

Recently, significant public attention was generated by what Chinese Canadians considered a derogatory portrayal of their race and culture in a dance segment of 'The Nutcracker', performed by the National Ballet of Canada. Mr. Ying Hope, Alderman for the City of Toronto, expressed his resentment of the show, while others ridiculed his objection by calling it, as one reporter put it, 'a tempest in a Chinese tea pot.' But another reporter, on the same newspaper, described it as 'no laughing matter.' Subsequently, the debate became heated without any consensus being achieved.

In the ballet, Clara, the child heroine, is entertained at the palace of the Sugar Plum Fairy as a reward for her heroism in saving the Nutcracker Doll from the clutches of the Mouse King. Dancers from Spain, Russia, Arabia and China perform for her.

The Chinese sequence is performed by two male dancers. Their dance is short, lasting 80 seconds, and is choreographed to be very lively and humorous. It precedes the *grand pas de deux* danced by the Prince and the Sugar Plum Fairy.

In order to understand the 'Nutcracker' issue, one cannot ignore the history of racism that has existed in Canada or overlook the particular derogation of the Chinese Canadian community which, like so many other minority groups, is today becoming much more vocal and concerned about its place in Canadian society.

This was evidenced in 1980 through the forceful action taken by the Chinese Canadian community over the W-5 controversy. That issue focused on the television segment entitled 'Campus Giveaway' which advanced the thesis that foreign (i.e. Chinese) students were taking over Canadian students' places in universities and it reinforced its thesis by citing statistics. As a result of public pressure orchestrated by the Chinese Canadian *ad hoc* committee against W-5, the TV station eventually apologized publicly for the racist nature of its program segment.

This, in turn, led to the popularization of a new concept in the Canadian consciousness: 'unconscious racism'. The concept is realized in situations where no conscious intent to discriminate or to stereotype exists, but where the results of one's words or actions may nonetheless reinforce, advance or create a negative or derogatory racial stereotype. This was the claim made about the depiction of Chinese characters in 'The Nutcracker'.

While no one claimed that the portrayal intended to be derogatory or racist in any fashion, a segment of the Chinese Canadian community felt that the image projected in the ballet reinforced a derogatory stereotype and did not neutrally or tastefully portray the image of the Chinese community as it would like to see itself portrayed. The leaders suggested that appropriate changes be made, changes that would not destroy the integrity of the ballet.

The matter became a concern of the Ontario Human Rights Commission. As a result of its efforts, the National Ballet of Canada (through its representatives, Ms. Celia Franca and Mr. Robert Johnston) agreed to take the concerns of Mr. Hope and other members of the Chinese Canadian community into consideration as part of an ongoing review of 'The Nutcracker', though no firm commitment concerning definite changes was made. In an effort to dispel the misunderstanding that had developed, Ms. Franca further volunteered to meet with various representatives in the Chinese Canadian community to hear their views on this matter and to discuss issues of mutual interest in the performing arts field.

Unconscious racism is now definitely part of our social agenda. ■

What is rapid case process?

This spring, the Ontario Human Rights Commission will begin to speed the disposition of its increasing case load by using, on a pilot basis, The Rapid Case Process.

The Rapid Case Process is a series of systems designed to process incoming cases and unresolved (open) cases in a manner that will yield an improved rate of resolution within a reasonable amount of time.

At the intake level, it screens out those cases that are non-jurisdictional or amenable to resolution without lengthy investigation (i.e., where there is little dispute about the facts).

Here, the fact-finding process involves an early face-to-face meeting between the parties and the commission, at which all pertinent documents and/or facts are reviewed. If agreement on the issues is reached, conciliation and settlement can follow on the spot. ■

Beverley Salmon - A Remarkable Woman

By Wilson A. Head

'Empty drums make the most noise', says the old adage.

Bev Salmon makes about as much noise as a feather settling on a mill-pond, but she packs the punch of a leviathan. Thousands of black people and members of other, non-white minority groups living in Toronto already know this about Bev. They have experienced, at first hand, her quiet, tenacious, irresistible way of getting things done and that is why they greeted the news of her appointment last year to the Ontario Human Rights Commission with such pleasure. Their pleasure is two-fold, for Bev Salmon is also the first black woman to be appointed as a provincial human rights commissioner.

Bev was born in Toronto. Her father immigrated to this country from Jamaica as a young man of 17 and her mother, a first generation Canadian, is of Scottish descent. Bev went to school here and graduated from the Wellesley Hospital School of Nursing. She took post-graduate training in public health nursing at the University of Toronto and was declared the 'Most Outstanding Nurse' of her graduating class.

Bev never had any doubts about what she wanted to do with her life; helping people who need to be helped has always been her driving ambition. She began nursing in Toronto, but early in her career moved, for a time, to Northern Ontario, where she worked in French Canadian and Indian communities. Later, as a member of the Victorian Order of Nurses (VON), she was a district nurse.

She returned to Toronto and for several years worked in the city, making friends and gaining the love and respect of her many patients. But she couldn't stay forever. It was a sad day for a lot of folk when, after the good-byes were said and the good wishes were wished, Bev and her husband, Doug, moved to Detroit where, after graduating from the University of Toronto Medical School, Doug was to serve his surgical residency.

Bev wasn't sad, though; she looked forward to the future with all the optimism and awe-inspiring energy that characterizes her life and work.

She put both to good use as soon as she and her husband arrived in the city which, for the next four years, was to be their home. Not only was she a nurse with the Visiting Nurses Association of Detroit but, what is more significant, she began her involvement in community relations, the work that was to become the major commitment of her life.

During the mid and late '50s, Bev was an active member of many community organizations. She spent her time helping and encouraging people in what used to be called the 'slum' areas of Detroit to get along in life and with each other. She involved herself in neighbourhood block clubs; she laboured untiringly in the field of race and ethnic relations, both with blacks and other ethnic groups, notably the Polish population in mid-town Detroit. She participated in many race relations workshops and conferences and also in weekend camps and other activities sponsored by the Fellowship of All Peoples - an inter-racial organization still very prominent in Detroit today.

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Her work brought her into contact with all manner of people, leaders and followers alike. She remembers, with pride, her meeting with Dr. Martin Luther King, Jr., Tom M'Boya, Thurgood Marshall and several civil rights leaders during their visits to Detroit.

Bev chose to devote herself to a cause that the great majority of people would find involved nothing more than sheer discouraging, sleep-robbing and soul-rending toil. But she tackled the job cheerfully with all the selfless dedication that those who are close to her are familiar with.

And Bev had another burden to carry. She was, herself, as a black person, subjected to the myriad indignities and insults that black people have had to bear for hundreds of years. We all know what they are. Some of us have suffered them and some of us have perpetrated them against others. Too many of us, to our shame, have condoned them.

It is a measure of Beverley Salmon's worth as a human being that none of these experiences which, in those Detroit days, had not only official sanction, but legislative support, embittered her or made her falter in her resolve to help people, whether they are black, brown, yellow or white, to live a healthier and happier life together.

When Doug's four-year residency came to an end, he and Bev returned home to Toronto and concentrated on raising a family. Bev gave up full-time nursing and devoted her energy to bringing up their four children and being a volunteer worker for their local ratepayers, church and other community groups.

Her activities didn't stop there, however. She was an executive member of the Black Heritage Project, the founding chairperson of the Black Liaison Committee of the Toronto Board of Education, a member of the North York Board of Education Status of Women Committee and a member of the Ontario Status of Women Council.

In the midst of this phenomenal round of activity and its attendant responsibilities, Bev took time out to run for alderman in the 1976 North York municipal elections! She was the first black woman to run for political office in the city of North York.

She ran a vigorous campaign and, although she lost, she lost by an extremely narrow margin. The closeness of the race testifies to the faith and confidence that her supporters, all members of an affluent community with a very small non-white population, had in her.

The mid 1970s brought to Toronto a wave of increased overt racial discrimination and Bev, with a few other dedicated people, founded the Urban Alliance on Race Relations. She was the organization's first secretary and remains a member of the board of directors even while meeting her commitments as a very busy human rights commissioner. She also played a major role in the revival of the National Black Coalition of Canada, the only national organization of blacks in this country.

The list of Bev's accomplishments is almost endless, and throughout all these years of intense activity, she, her husband Doug and their four children have maintained very close family ties.

Bev gives much of the credit for both her professional success and her success as a wife and mother to the understanding, sympathy, encouragement and support she has received from Doug. 'I couldn't have done it without him,' she says, simply.

Bev doesn't think of herself as an activist, not in the usual sense of the word, that is. You won't find her standing in a crowd of protesters in front of City Hall chanting slogans or marching up University Avenue to the Parliament Buildings brandishing a placard. But she is an activist, nonetheless, making her presence felt where it is needed: in the community, fighting for the disadvantaged, the down-trodden, the exploited and the misunderstood.

It is a privilege to live in the same city as this most remarkable woman. ■

Bill 7, The revised Ontario Human Rights Code, which is substantially the same as Bill 209 analysed in our March issue, was introduced into the legislature on April 24, 1981.

What is discrimination?

By Howard A. Levitt

Discrimination was not explicitly defined in Bill 209* of the last legislature. However, three distinct definitions have emerged from the decisions of courts and boards of inquiry:

1. *Intentional Discrimination*

In some cases, it is obvious that the employer has intentionally singled out a person according to a legally prohibited ground and has treated that person disadvantageously. An example would be a company that refused to hire a female 'doorman' on the ground that 'the position of doorman was no place for a lady.' The company revealed its intention by making the ground of refusal to hire explicit.

2. *Different Treatment*

This kind of discrimination may be completely automatic and unthinking. It involves stereotyping members of some groups on the basis of a prohibited ground (race, creed, colour, sex, etc.) and treating them disadvantageously. This kind of discrimination may rest on unexamined assumptions about the susceptibilities, attitudes or desires of the groups concerned. An example would be to expect women employees, but not men, to serve coffee, or to expect black hotel workers but not whites, to carry luggage. Such practices are illegal, even if they are not explicitly described as being so in statutes.

3. *Discrimination by Consequences (Systemic Discrimination)*

This kind of discrimination may be hard to detect. Ostensibly, the employer uses a criterion in hiring or promoting employees which is, in itself, legal and acceptable, but the actual consequences of its application are unfair to people who belong to a racial, religious or other protected group. Also the application of the criterion may not be related to job performance. For example, it may be quite legal to hire job applicants on the basis of height. But if a police force required all officers to be over six feet tall, the requirement would discriminate against women, very few of whom are over six feet tall. If an employer intended to discriminate against women, he or she might try to do so by using the height criterion. It would therefore be impossible to tell whether the employer intended to discriminate or not. Boards of inquiry have ruled that the employer's intentions do not matter. What matters is whether the effects are discriminatory against a protected group. It would be illegal, in this example, to use the otherwise harmless and acceptable height criterion if it is not essential to the job.

There are several reasons why boards of inquiry may rule that there has been discrimination even where there is no intent. First, intentions are notoriously difficult to prove. Sometimes they are irrefutably obvious, usually they are not. Secondly, in cases of discrimination by consequences, the employer can always provide a 'legitimate' intent. For example, an employer may advance good reasons in favour of a height qualification for police officers. The easy availability of these reasons obscures the real intent of the police commission which may, in fact, be covertly discriminatory. Finally, if it were necessary to prove intent, very few cases of indirect discrimination could be revealed and much of the protection afforded certain disadvantaged groups would vanish.

In one interesting case, a fire department hired firefighters from a list of white applicants it had stockpiled over the years. By not posting or advertising new jobs, it excluded, and hence discriminated against, non-white members of the community who had recently moved into the area. There may have been no hint of an intention to discriminate, but the board of inquiry ruled that the effects were discriminatory nonetheless.

In another case, a hospital made two distinct collective agreements, one with a women's union and one with a men's union. The responsibilities of the groups were similar, but, as it happened, the men drove a harder bargain and won a higher wage. The hospital did not intend the women to settle for a lower wage, but the pay differential was ruled discriminatory nonetheless.

In a third case, a practising Sikh was refused a job as a security officer because he insisted on wearing the beard and turban required by his religion. The company's rule that security guards be clean-shaven and wear regulation hats would not be discriminatory in usual circumstances, but, in this case, the board of inquiry found that the practice had a discriminatory consequence for Sikhs.

Personnel policies which require certain entry level qualifications which a human rights commission can prove are not very closely related to the job and which have the effect of disentitling a particularly high percentage of women and members of minority groups, who otherwise would qualify for the job, have been held to be discriminatory.

The only recognized defence that an employer can bring against a charge of indirect discrimination is to establish that the practice is a business necessity and that its utility is so indispensable as to override a discriminatory side-effect. Sometimes it can be shown that there just is no reasonable alternative available.

In a case recently won by the employer, it was found that a Seventh-Day Adventist could be required to work on Friday nights since the company was unusually busy on these evenings and failure to work would place an undue burden on other employees and cause business hardship. The case is now under appeal. ■

(Reprinted, by permission, from the *Employment Law Report*).

*And neither is it in Bill 7 of the current one.

Another view

By Andrew Pressburger

As the National Ballet pirouettes its way into a new Spring season, one is reminded of the controversy over the company's recent perfidious assault on Canada's cultural mosaic. I am referring, of course, to the objections expressed by one of the city fathers, who perhaps should know better, to the stylized caricature of a Chinese dance in Tchaikovsky's *Nutcracker*. At least we ought to be thankful for our elected representatives expressing an interest in the artistic endeavours of the nation.

Before we become too vastly amused by such goings on, it would do well to remember the frontal attack by the Jewish community, collectively and institutionally, against the Stratford production of *The Merchant of Venice* some years ago. Shakespeare's work was denounced as an example of rank anti-Semitism which no longer had a right to exist in the theatrical repertoire of a democratic country in the post-holocaust era. No doubt, such outpouring of indignation was greatly influenced by the all too vivid memory of the tragedies of the recent past. Still, one can't help feeling that the Jewish protest movement came out of this 'confrontation' second best, and that Alec Guiness's unforgettable portrayal of Shylock remained a much more memorable experience than the furor caused by the presentation of the play.

It is all too easy to miss the point the bard is attempting to make here. Far from making him out to be a villain, Shakespeare creates in Shylock a tragic hero; one whose situational agony is elevated to the level of a powerful symbolism of the human condition. The Jew who, after all, was the archetypal entrepreneur in Shakespeare's time, and was identified as such by his none too enlightened audience, gets caught up in the universal dilemma of a rigid value system coming a cropper in the presence of a changing reality. Shylock's tragedy is, at the same time, Antonio's tragedy, Lorenzo's tragedy, even (especially?) the tragedy of his daughter Jessica. Far from being the facile comedy, *The Merchant of Venice* is a melancholy statement about individuals fighting to save their rights, their individuality, their dignity, in the face of exacting social mores and ethical 'binds.'

Isn't there something tragic, after all, about a society that requires the Jew to renounce his heritage, to yield up his religion — the very essence of his identity — to the capricious authority of the State? And isn't the alienation of man, be he Jew or Gentile, tragedy enough as he renounces his linkage with humanity in favour of his 'pound of flesh?'

It is a good thing that ethnic minorities are at last asserting their worth and dignity. It is proper that slurs and caricatures are no longer acceptable to the ever-maturing awareness of contemporary society. May the time not be distant when we cease talking about minorities and majorities altogether, when the condescension of mere tolerance is replaced by respect and the common bonds of tranquility and fellowship.

In the meantime, let genuine sensitivity and appreciation be our guiding motive instead of uninformed oversensitiveness, arrogant pride's twin. Might it be really necessary to eliminate *Il Trovatore* from the operatic repertoire because it may be offensive to Gypsies? To remove *Hamlet* from the stage because of what Danes might think when hearing the reference to the decadent condition of their state? To expurgate *My Fair Lady* so Hungarians won't get upset about one of their countrymen being referred to as 'that hairy hound from Budapest?' (As it happens, some misguided directors did just that in the wake of the 1956 uprising in that country.)

Instead of being bitter and vindictive, let us thrill to the delights of the *Valse of Flowers*, signalling the arrival of genuine Springtime and heartfelt warmth in the soul of man. We might even think of a way of forgiving Richard Wagner. Didn't he, after all, depict some of his ancestral compatriots in somewhat the same light as we tend to think of them sometimes?! ■

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Editorials

Klan Visits School

In early March 1981, a grade 12 teacher in North York was approached by a student, just before class began, with the request to have KKK members address the class. Two Klansmen were with him. The teacher had no time to think about the request or to ask the principal's advice, and he agreed. The KKKers then addressed the class on the organization's history and philosophy and left some literature.

When the incident became known, there was widespread disapproval. The North York Board of Education 'sincerely regretted' the matter and, after issuing reprimands, promised that instrusions of this kind would not happen again.

But the *Globe and Mail* took a different line. In an editorial (March 13) it saw no harm in the KKK's appearance. 'Students do not become informed adults by being sheltered from humanity's uglier spokesmen,' it said and assumed that they would find the KKK spokesmen 'prejudiced, nonsensical, and uncivilized.'

But will they? Or will there be some who are intrigued by the tale of the Klan 'defending the white race,' and who will not be at all loathe to identify themselves with a macho mystique. That being a distinct possibility, should the school become the vehicle for helping the Klan in any way? We would think not. ■

Frustrations

In past issues of *Affirmation* we have let you in on some of our successes. It is time we let you in on some of our failures and frustrations as well.

It is an open secret that many Ontario Human Rights Commission decisions on a complaint engender negative views about the commission's work. If the complaint is dismissed, the complainant (to whatever group he or she may belong) may be personally unhappy and may very well share this unhappiness with friends and associates. In their view, the commission may obviously have failed to do justice.

If, on the other hand, the commission decides on a board of inquiry, the respondent will likely be unhappy, for not only are there monetary and legal consequences, but there is also a diminution of the respondent's self-image. Consequently, the commission may be viewed as a meddler in private affairs and another example of over-regulation.

And that is not all. We are considered to be too active by some segments of the population and not active enough by others. We are expected to do a huge public relations job that will change people's feelings about each other. The fact is that no commission can do this by itself. Discrimination will, in all likelihood, always be with us to some degree.

The question is, how successfully can we help to contain it? How can we make discrimination an unpopular practice and convince people that non-discrimination is a saner and more human policy?

By the nature of things, this kind of education does not yield to quick solutions. Our friends must know that we are just as frustrated as they; but that does not mean we should not continue to do what we can. There is an old saying which is worth quoting: 'The day is short and the task is great. It is not given to us to complete the job, but neither are we permitted to desist from it.' ■

Name calling

A black Canadian employed by the respondent company for twelve years alleged that a supervisor had made many insulting remarks of a racial nature to and about him for many years. The complainant stated that it was because of this history of insults that he was provoked into calling the supervisor a racist bastard during an argument over overtime pay. As a result of this name-calling, the complainant was put on a five-day suspension and a disciplinary letter was placed in his file.

During investigation, the supervisor admitted saying 'I don't like niggers' and witnesses testified to having heard him say this. Several witnesses gave examples of racist terms they had heard the supervisor use in reference to the complainant, e.g. 'lazy nigger', 'nigger's cup', etc. Two witnesses stated they had heard the supervisor use other racial terms such as 'wop' and 'frog'. One witness stated that ethnic jokes were commonplace in the respondent company. It was revealed that the complainant was not given an opportunity to present his side of the situation when he was put on suspension. No previous disciplinary action had ever been taken against the complainant.

The settlement terms agreed to included: payment to the complainant of five days' wages and $1,800 for personal damages, for a total of $2,209.47, removal of the five-day suspension from the complainant's record and of the disciplinary letter from his file, sending a letter of apology to the complainant and a letter of assurance to the commission, presentation of a seminar by the human rights officer to the company's training department on the use of racially derogatory language, for use in the company's own training seminars, re-examination of the company's disciplinary policy and posting of code cards on employee bulletin boards together with a memo regarding the use of racist remarks and consequent discipline. ■

Complaint leads to improvement in employment practices

A female complainant questioned why male employees of the respondent received a Christmas bonus of $129 while females received only $93. Her supervisor allegedly told her it was because females didn't drive a tow motor and were therefore in a category that paid a lower bonus. The complainant stated that, to the best of her knowledge, no female employee had been offered the opportunity to be a tow motor operator and she resigned because of this apparent unequal treatment.

During investigation, it was revealed that the bonuses had been paid according to category. Most of the male plant employees were grouped in one category and the female employees, in another. This distinction was made on the basis of whether the employees worked full-time or part-time. All the female employees were part-time workers. The respondent told the investigating officer that the predominance of female part-time employees existed because the jobs they performed were more suited to married women who wished to work only a few hours and men would not accept these positions. Bonuses, therefore, were paid in accordance with the value the respondent placed on an employee's work contribution. The respondent stated that the company had never employed a female tow motor operator though it had tried, without success, to train women to be operators of these vehicles.

The settlement proposals agreed to by both the respondent company and the complainant were that the respondent would no longer categorize employees as full-time and part-time workers, that there would be clarification of recruitment procedures and that all qualified applicants for a job would be made aware of the distinction between the various positions. Applicants would be given equal opportunity to apply for any available position regardless of sex. ■

Two boards of inquiry

George Brown College

Female student chefs will compete with male student chefs for jobs after graduation day. How well women fare in entering trades and professions traditionally dominated by men depends upon all of us.

The complainant had brought a complaint against his employer charging that he had been dismissed in contravention to sections 4(1)(b) and 4(1)(g) of the Ontario Human Rights Code. The complainant is one of the few black employees in the company — and he claimed that when a theft took place in the store, he was blamed for not having supervised his merchandise adequately (in addition to a suspicion that he might have been involved in the theft itself).

The Ontario Human Rights Commission, having reviewed all the facts, felt that a case of discrimination could be made out inasmuch as it appeared that the complainant had been treated somewhat differently from other (white) employees. Consequently, the commission voted to forward the case to the minister with a recommendation for a board of inquiry.

The board, Prof. M.R. Gorsky, ruled against the complainant and the commission. He felt that while the complainant could, 'with some justice, perceive as peculiar, practices being conducted by the respondent as part of its security operations,' it could not be established beyond doubt that indeed the respondent had treated him differently from any other employee. The commission's case was based on the requirement of the code that any conditions of employment must be applied equally to persons of all races and colours and that these include the criteria for dismissal of employees. The board examined previous dismissals that could be compared to those of the complainant and arrived at his conclusion of non-discrimination. Prof. Gorsky did not investigate whether the complainant was involved in the theft; instead, he restricted himself to the question of whether differential treatment had been meted out. He could not connect the fact that only few black employees were working in the store with a conclusion of differential treatment once the person had been engaged. This being the sole focus of the board, the complaint was dismissed.

The second case involved a woman who had been trained as a chef and was refused employment by a restaurant because its manager desired a male chef. Prof. Ian A. Hunter was appointed as a board of inquiry and he concluded that discrimination on the basis of sex had taken place. The complainant had received a job application from Canada Manpower and had taken it, along with copies of her credentials, to the restaurant in question. The evidence showed that she had been turned away because of her sex, although the respondents claimed that language difficulties, and other circumstances, had produced the refusal.

The board awarded the complainant $1200.00 for lost wages and $150.00 in damages for insult to her dignity. ■

Domestics clean up their workplace

By Louise Brown

There is no factory whistle to mark the end of the day, no legal limit to the hours they can be asked to work, no protection from 15-hour shifts.

Yet.

For Ontario's 70,000 mother's helpers, nannies, housekeepers and maids - three-quarters of them immigrant women - the 48-hour work week is no longer an impossible dream. It's the next legal right they will try to win in the ongoing fight for better working conditions.

Lately, their batting average has been pretty good.

The exploding number of working women and the shortage of affordable day care have created a red-hot market for household help.

Traditionally a submissive, almost invisible, work-force with few legal rights in this province, domestic workers have become more organized, more assertive and more politically astute with employers and politicians. Their exploitation has become a public issue in the past two years.

Horror stories

Horror stories have been reported by federal and provincial women's groups; and here, in Toronto, flashy picket lines marched before the mansions of alleged domestic exploiters in Forest Hill, marches staged by a feisty lobby group called Labour Rights for Domestic Servants.

The group was founded by cook-housekeeper Mirjana Tenebaum, who says these efforts have partially paid off with new laws that are 'better than nothing, which is what we had before.'

In one fell swoop, on New Year's Day, Ontario's domestics won an unprecedented package of legal rights.

The Employment Standards Act now guarantees domestics a $3-an-hour (or $24-a-day) minimum wage, at least 36 consecutive hours off per week, public holidays and two weeks' annual vacation - rights that domestics' lobby groups have been demanding for two years in meetings with provincial officials.

Miller Services

Mother's helpers and nannies are among the province's domestic workers fighting for better working conditions.

As with many sections of the Employment Standards Act, the law will be enforced only when an employee complains. 'We can't afford to have investigators routinely knocking on doors to check up on domestics and their employers,' says one labour ministry worker.

But some domestics already are calling a local domestics' rights group, complaining that their employers haven't upped their wages yet to meet the new standards. They're too frightened to complain to the ministry.

Any domestic who feels she is being short-changed should send her complaint to the Employment Standards Branch of the Ontario Labour Ministry, 400 University Ave., Toronto M7A 1V2. If it appears she has a valid complaint, an employment standards investigator will contact her and her employer and decide whether there has been a violation.

If the employer does not agree to pay money owed to the domestic, including back pay, the ministry can issue an order to pay, plus a fine of 10 per cent of the amount owed.

And the law prohibits an employer from taking any reprisals against an employee who complains to the ministry.

The new Ontario Human Rights Code, when passed, will expressly protect domestic workers from discrimination in hiring, which some domestics say was a problem. Domestics had been the only group not covered by the code, an omission which permitted ads with such racial stipulations as 'European cleaning ladies', 'German cleaning lady', 'Philippino nannies' and 'English companion'. It even lead to what one domestic activist calls 'racial fads'. Women from the Philippines and Taiwan are very 'in' these days; blacks are having a harder time getting work.

The Weiler report on workers' compensation in Ontario, submitted to the provincial government in November, recommends that domestic workers be covered by workers' compensation, and labour minister Robert Elgie told The Star 'There'd have to be some pretty compelling arguments against that to turn it down.'

For a historically disenfranchised group, all this is pretty heady stuff, and yet domestic rights' groups say the biggest battle - to win a limit to the number of hours a domestic must work - is just heating up. ■

Reprinted, by permission, from the *Toronto Star*, January 22, 1981.

When racism ripens violence is plucked

By W. Gunther Plaut

The appearance of the Ku Klux Klan on the Canadian scene has given rise to many questions which need open discussion. They can no longer be disregarded and swept under the rug of self-satisfaction.

Not that the Klan poses in and of itself, a significant danger to our society. Its numbers are small and it may be assumed that its philosophy (however prettied up for public consumption) is basically repugnant to the vast majority of Canadians. Still, the Grand Wizard of the KKK opines from his southern lair that Canada — and especially Toronto — presents fertile soil for the Klan's point of view. Racism, in other words, is a ripe fruit to be plucked. The so-called Wizard may belie his title in everything else, but is it possible that in this respect he is right?

There are many members of our visible minorities who would agree that racism is on the rise. Others disagree vigorously and claim that racial incidents have been blown out of proportion. Not every dispute between people of different ethnic backgrounds is a racial confrontation, they say.

Of course not. But from where I sit (as a member of the Ontario Human Rights Commission) neither can I agree that our inter-group relationships are in satisfactory order. Quite the contrary. The steady and increasing appearance of racial complaints on our docket refutes this all-too-easy assumption, as does a series of extensively documented studies of our social fabric. In addition, it must be understood that what people *think* about their condition becomes an operative part of their existence. Self-perception has a dynamic share in shaping our existence. It is as much part of reality as are objective factors. A society in which considerable numbers believe they are the subject of discrimination knows discrimination as a realistic fact.

The Jewish community is a case in point. Over the past 30 years it has, on the whole, experienced a sense of increasing confidence and security. But this security had its cracks, as the anxieties raised by Quebec separatism have vividly demonstrated. And now comes the redoubtable Robert Fulford, who writes (in the November issue of Saturday Night) that the 'Blame the Jews' syndrome is uncomfortably alive in Canada. From graffiti in Toronto's illustrious Robarts Library to public proclamations that Zionists (read Jews) are racists, the message is emerging that anti-Semitism is once more becoming part of the Canadian scene.

Which brings us back to the Klan. Various newspapers, radio and television stations gave the KKK a great deal of free publicity and thereby, in effect, an aura of spurious respectability. The 'Klan in Canada' was, at its beginning, a media event. But once the genie was out of the bottle it assumed a life of its own. It is still small, to be sure, and it is hoped public awareness will keep it so.

That, however, can succeed only if at the same time there is an awareness that there *is* a great deal of prejudice in our society. The Klan and similar groups are poised to exploit it — against blacks, Asians, Jews, wherever there is a chink in the social armor. The Klan may not at this time proceed to break any law; it doesn't need to as long as society breaks its own laws that enshrine human rights. From there to violence is always a small second step. It is doubly important, therefore, to see to it that we never come close enough to make the second step likely or feasible. ■

This article by *Affirmation's* editor first appeared in the Toronto *Globe and Mail*, (Dec. 9, 1980).

Letters to the Editor

In response to our editor's article in the *Globe and Mail* on Bill 209 (the new Human Rights Code proposed in the last legislature) a number of letters were received. Two of them were from Mr. Andrew Douglas who describes himself as a member of a minority group and an employer. In his first letter, written also to the *Globe and Mail,* he tells of his negative reactions to a complaint lodged against his company by a former employee. Though the case was decided by the Human Rights Commission in the respondent's favour, Mr. Douglas had found the experience most disagreeable and feared that he might have to pay the discharged employee a large sum of money as compensation. He concluded that, from now on, he would make sure not to hire members of minority groups, a procedure which he described as the only way to protect himself from the negative impact of the Ontario Human Rights Code. Our editor replied to the letter and received the following as an answer (excerpted):

'Dear Sir: Today, again, I met a person responsible for hiring, who stated, that she had solved 'the problem' by simply not hiring women for factory jobs. 'The problem' was that of employees or ex-employees going to the Human Rights Commission. She made certain that there were always enough applicants for every vacancy so that suitably qualified males could be hired.

'This is far from an isolated case and close to being the general rule.

'In reply to your questions: one brush with the Human Rights Commission has distorted my moral views to the point that we now have different ideas of our obligations. Yes, the Code and Commission should be abolished. That, at least, would reduce by one the hurdles the minorities have to jump to find employment for themselves.

'I doubt that you believe my assertions of the negative effect of the Human Rights Act. If you feel it is merely an isolated case, please have a few meetings on an off the record basis with half a dozen business men in positions of power in smaller companies. I believe you will find six people who think the same as I do.

'Sincerely,
Andrew Douglas' ■

Human rights - a Christian perspective

By Borden Purcell

Canon Purcell is Rector of St. John's, Elgin St., Ottawa, and a commissioner with the Ontario Human Rights Commission.

Christian understanding of human dignity and freedom derives from the biblical concept that all people are made in the image of God.

Inherent, therefore, in the Christian tradition, is the right to freedom and the responsibility to guarantee and strive for freedom for all persons.

Christians, although they agree that human dignity carries with it human rights for all, have often failed to accord these rights even in their own communities, and there is no political structure in existence whose record in terms of human rights is unblemished. In some environments, the enjoyment of rights is limited to particular social or ethnic groups or to those who accept the political positions of the ruling party or system. Those who question that position may thereby forfeit their rights or opportunities. Similarly, in many places the 'haves' are zealous to maintain their own 'rights', but their zeal does not extend to the 'have nots'.

The Christian Church is obliged to strive for the realization of full human rights and freedom for all people. In her history some groups or individuals have brought about great advances in these matters through their convictions and commitment.

Local and national churches, with the active support of the universal Church, should strive for the incarnation of these rights within their situations, remembering that it is not enough simply to make general statements or to win partial victories. Our aim is freedom for every part of the community and for the creation of those realities of justice and compassion which guarantee that freedom. ■

Future issues of *Affirmation* will carry the views held on human rights by other religious groups.